

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants : Michael Wayne Graham and Robert Norman Rice  
Serial No. : 10/759,841 Examiner: Whiteman, Brian A.  
Filing Date: January 15, 2004 Group Art Unit: 1635  
For : SYNTHETIC GENES AND GENETIC CONSTRUCTS  
Conf. No. : 8757

30 Rockefeller Plaza  
20<sup>th</sup> Floor  
New York, New York 10112

Commissioner for Patents  
P.O. Box 150  
Alexandria, VA 22313-1450

Sir:

**TERMINAL DISCLAIMER UNDER 37 C.F.R. §1.321(c)**

Commonwealth Scientific and Industrial Research Organisation, ("CSIRO"), having a place of business at Limestone Avenue, Campbell ACT, Australia, is the owner of (assignee of record of the entire right, title and interest in) the above-identified application ("the '841 Application) by virtue of the following assignment chain:

- i) Michael Wayne Graham and Robert Norman Rice each on April 29, 2003 signed an Assignment (Joint) assigning their entire right, title and interest in and to the inventions set forth in U.S. Serial No. 10/346,853 ("the '853 application"), and consequently the '841 Application, which is a continuation of the '853 application, to Benitec Australia Ltd. and to State Of Queensland Through Its Department Of Primary Industries (Assignment recorded in the U.S. Patent and Trademark Office April 6, 2009 at reel 022491, frames 0178 to 0180);
- ii) State Of Queensland Through Its Department Of Primary Industries executed on December 8, 2003 a Deed of Assignment assigning all of its rights and interests in the

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**Exhibit D**

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'853 Application, and consequently the '841 Application, which is a continuation of the '853 Application, to Commonwealth Scientific and Industrial Research Organisation (Assignment recorded in the U.S. Patent and Trademark Office August 10, 2004 at reel 015085, frames 0745 to 0751); and

- iii) Benitec Australia Ltd. Executed on August 21, 2006 a Deed of Assignment assigning all of its right, title and interest in and to the '841 Application to Commonwealth Scientific and Industrial Research Organisation (Assignment recorded in the U.S. Patent and Trademark Office November 2, 2006 at reel 018472, frames 0587 to 0595).

Accordingly, the '841 Application is assigned of record solely to CSIRO.

CSIRO is also the owner of (assignee of record of the entire right, title and interest in) U.S. Serial No. 10/346,853 by virtue of the following assignment chain:

- i) Michael Wayne Graham and Robert Norman Rice each on April 29, 2003 signed an Assignment (Joint) assigning their entire right, title and interest in and to the inventions set forth in the '853 Application, the '853 Application, and in and to any and all divisionals, continuations, and continuations-in-parts of the '853 Application to Benitec Australia Ltd. and to State Of Queensland Through Its Department Of Primary Industries (Assignment recorded in the U.S. Patent and Trademark Office June 24, 2003 at reel 013755, frames 0922 to 0925);
- ii) State Of Queensland Through Its Department Of Primary Industries executed on December 8, 2003 a Deed of Assignment assigning all of its rights and interests in the

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'853 Application and any divisional, continuation or continuation-in-part applications thereof to Commonwealth Scientific and Industrial Research Organisation (Assignment recorded in the U.S. Patent and Trademark Office February 13, 2004 at reel 014340, frames 0445 to 0451); and

iii) Benitec Australia Ltd. executed on August 21, 2006 a Deed of Assignment assigning all of its right, title and interest in and to the '853 Application and any divisional, continuation or continuation-in-part applications thereof to Commonwealth Scientific and Industrial Research Organisation (Assignment recorded in the U.S. Patent and Trademark Office November 2, 2006 at reel 018472, frames 0587 to 0595).

Accordingly, the '853 Application is assigned of record solely to CSIRO.

CSIRO hereby disclaims, except as provided below, the terminal part of any patent granted on the above-identified application which would extend beyond the expiration date of any patent granted on U.S. Serial No. 10/346,853 and hereby agrees that any patent issued from the subject application shall be enforceable only for and during such period that the owner of such patent is the same as the owner of any patent granted on U.S. Serial No. 10/346,853, this agreement to run with any patent granted on the subject application and to be binding upon the grantee, its successors and assigns.

In making the above disclaimer, CSIRO does not disclaim the terminal part of any patent granted on the subject application that would extend to the expiration date of any patent granted on U.S. Serial No. 10/346,853, in the event that any such patent granted on U.S. Serial No. 10/346,853 expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37

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C.F.R. §1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any other manner terminated prior to the expiration date which any such patent granted on U.S. Serial No. 10/346,853 would otherwise have had.

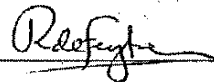
I have reviewed the assignments referred to herein and certify that, to the best of my knowledge and belief, CSIRO is the assignee of all right, title and interest in and to the subject application and of U.S. Serial No. 10/346,853. I further certify that I am authorized to sign this Terminal Disclaimer on behalf of CSIRO.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that any such willful false statement and the like so made is punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that any such willful false statement may jeopardize the validity of the application or any patent issuing thereon.

Commonwealth Scientific and Industrial  
Research Organisation

Date: 23 June 2011

By: \_\_\_\_\_



Robert C. de Feyter, Ph.D.  
Intellectual Property Manager